

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>CONSTRUCTION ENTERPRISES, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:10-00711</b>
	)	<b>Judge Sharp</b>
<b>WATERSTONE AT PANAMA CITY</b>	)	
<b>APARTMENTS, LLC and the TAPESTRY</b>	)	
<b>GROUP, INC.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

For the reasons set forth in the accompanying Memorandum, the Court hereby enters the following rulings:

(1) Plaintiff/Counter-Defendant Construction Enterprises, Inc.'s Motion to Dismiss Counter-Complaint (Docket No. 6) is hereby DENIED;

(2) The Report and Recommendation of the Magistrate Judge (Docket No. 45) is hereby ACCEPTED and APPROVED, and the Objections thereto filed by Defendants/Counter-Plaintiffs Waterstone at Panama City Apartments, LLC and the Tapestry Group, Inc. (Docket No. 48) are hereby OVERRULED;

(3) As sanction for Defendants'/Counter-Plaintiffs' failure to provide timely discovery and comply with the deadlines in the Case Management Order, the damages on their Counter-Complaint shall be capped at \$93,000.00, and Construction Enterprises, Inc. shall be awarded reasonable attorney's fees of no less than \$4,000.00;

(4) This case is RETURNED to the Magistrate Judge for a determination as to whether the recommended attorney's fees of \$4,000.00 should be increased based upon Construction Enterprises

Inc.'s further documentation of its attorney's fee request; and

(5) The Final Pretrial Conference will be held at 10:00 a.m. on October 14, 2011, and the jury trial will commence at 9:00 a.m. on October 25, 2011, both as previously scheduled.

It is SO ORDERED.

A handwritten signature in black ink, reading "Kevin H. Sharp". The signature is written in a cursive style with a horizontal line extending from the end of the name.

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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE